

REMARKS

By this amendment, claims 1-58 are pending. No claim is canceled, withdrawn, amended, or added.

The Office Action mailed February 3, 2004 rejected claims 1-4, 5, 7, 13-15, 17, 18, 24-26, 28, 29, 36-39, 41, 47-51, and 53 as obvious under 35 U.S.C. § 103 based on *Kay* (US 2002/0147011) in view of *Jacobsen et al.* (US Pat. 6,381,250), and claims 6, 11, 16, 22, 27, 33, 40, 45, 52, and 57 as obvious under 35 U.S.C. § 103 based on *Kay* in view of *Jacobsen et al.* and in further view of *Heatwole et al.* (US 2002/0021678).

Applicant appreciates the Indication that claims 8-10, 12, 19-21, 23, 30-32, 34, 35, 42-44, 46, 54-56, and 58 are allowable, but for the objection to their dependency on rejected base claims.

Applicant respectfully traverses the obviousness rejections because *Kay* cannot preclude patentability for obviousness in light of the American Inventors Protection Act (AIPA), Pub. L. 106-113, § 4807, effective for all applications filed on or after November 29, 1999. As amended, 35 U.S.C. § 103(c) provides:

(c) Subject matter developed by another person, which qualifies as prior art only under subsection (e), (f), or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention as made, owned by the same person or subject to an obligation of assignment to the same person.

The present application was filed after the Nov. 29, 1999 enactment date of this provision of the AIPA and is therefore entitled to benefit from the AIPA's prior art exclusion for certain commonly assigned patents. The present application has a filing date of June 11, 2001, which is before *Kay*'s publication date of October 10, 2002. Thus, *Kay* would qualify as prior art only under subsections (e), (f), or (g) of § 102. Since both the present application and *Kay* are commonly assigned (to Hughes Electronics Corporation), the use of *Kay* in the obviousness rejections is disallowed by law.

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Therefore, the present application overcomes the objections and rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (301) 428-7172 so that such issues may be resolved as expeditiously as possible. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,



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